

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

ARTICLE 4.

R7-2-401. Special Education Standards for Public Agencies Providing Educational Services

R7-2-402. Standards for Approval of Programs in Private Special Education Schools

R7-2-401. Special Education Standards for Public Agencies Providing Educational Services

A. For the purposes of this Article, the Individuals with Disabilities Education Act Amendments of 1997 (IDEA), 20 USC 1400 et seq. as reauthorized on June 4, 1997, and the IDEA 1997 regulations, 34 CFR parts 300.4 through 300.756 effective March 1999, are incorporated herein by reference. Copies of the incorporated material can be obtained from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 37195-7954, Pittsburgh, PA 15250 or the Arizona Department of Education, Exceptional Student Services, 1535 West Jefferson, Phoenix, AZ 85007. This article does not include any later amendments or additions to IDEA or IDEA regulations.

B. Definitions: All terms defined in the regulations for the Individuals with Disabilities Education Act (IDEA) 1997 Amendments (34 CFR Parts 300.4 through 300.30) and A.R.S. §15-761 are applicable, with the following additions:

1. "Accommodations" means the provisions made to allow a student to access and demonstrate learning. Accommodations do not substantially change the instructional level, the content or the performance criteria, but are made in order to provide a student equal access to learning and equal opportunity to demonstrate what is known. Accommodations shall not alter the content of the test or provide inappropriate assistance to the student within the context of the test.
2. "Adaptations" means changes made to the environment, curriculum, and instruction or assessment practices in order for a student to be a successful learner. Adaptations include accommodations and modifications. Adaptations are based on an individual student's strengths and needs.
3. "Administrator" means the chief administrative official or designee (responsible for special education services) of a public agency.
4. "Audiologist" means a person who specializes in the identification and prevention of hearing problems and in the non-medical rehabilitation of those who have hearing impairments and who is licensed to practice audiology according to A.R.S. Title 36, Chapter 17, Article 4
5. "Boundaries of responsibility" means for:
 - a. A school district, the geographical area within the legally designated boundaries.
 - b. A public agency other than a school district, the population of students enrolled in a charter school or receiving educational services from a public agency.
6. "Certified school psychologist" means a person holding a certificate from the Arizona State Board of Education issued pursuant to the Arizona Administrative Code, Title 7, Chapter 2, Article 6, in the area of school psychology.
7. "Certified speech/language therapist" means a person holding a certificate from the Arizona State Board of Education issued pursuant to the Arizona Administrative Code, Title 7, Chapter 2, Article 6, and a license from the Arizona Department of Health Services as a speech/language pathologist in accordance with A.R.S. Title 36, Chapter 17, Article 4.

8. "Department" means the Arizona Department of Education.
9. "Doctor of medicine" means a person holding a license to practice medicine pursuant to Chapter 13 (medical doctor) or Chapter 17 (doctor of osteopathy) of Title 32, Arizona Revised Statutes.
10. "Evaluator" means a qualified person in a field relevant to the child's disability who administers specific and individualized assessments for the purpose of special education evaluation and placement.
11. "Full and individual evaluation" means procedures used in accordance with the IDEA to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. This evaluation includes:
 - a. A review of existing information about the child; and
 - b. A decision regarding the need for additional information; and
 - c. If necessary, the collection of additional information; and
 - d. A review of all information about the child and a determination of eligibility for special education services and needs of the child.
12. "Independent educational evaluation" means an evaluation conducted by a qualified evaluator who is not employed by the public agency responsible for the education of the child in question.
13. "Interpreter" means a person trained to translate orally or in sign language in matters pertaining to special education identification, evaluation, placement, the provision of FAPE, or assurance of procedural safeguards for parents and students who converse in a language other than spoken English. Each student's IEP team determines the level of interpreter skill necessary for the provision of FAPE.
14. "Language in which the student is proficient" means all languages including sign language systems.
15. "Licensed psychologist" means a person holding a license from the State of Arizona Board of Psychologist Examiners in accordance with A.R.S. Title 32, Chapter 19.1, Article 2.
16. "Modifications" means substantial changes in what a student is expected to learn and to demonstrate. Changes may be made in the instructional level, the content or the performance criteria. Such changes are made to provide a student with meaningful and productive learning experiences, environments, and assessments based on individual needs and abilities.
17. "Private school" means any nonpublic educational institution where academic instruction is provided, including nonsectarian and parochial schools, that are not under the jurisdiction of the State or a public agency. "Private school" does not include home schools.
18. "Private special education school" means a private school that is established to serve primarily students with disabilities. The school may also serve students without disabilities.
19. "Psychiatrist" means a doctor of medicine who specializes in the study, diagnosis, treatment and prevention of mental disorders.
20. "Public agency" means a school district, charter school, accommodation school, state supported institution, or other political subdivision of the State that is responsible for providing education to children with disabilities.

C. Public Awareness:

1. Each public agency shall inform the general public and all parents, within the public agency's boundaries of responsibility, of the availability of special education services for students aged three through 21 years and how to access those services. This includes information regarding early intervention services for children aged birth through 2 years.

2. Each public agency is responsible for public awareness within their enrolled population (including the families of enrolled students).
3. School districts are responsible for public awareness in private schools located within their geographical boundaries.

D. Child Identification and Referral

1. Each public agency shall establish, implement, and disseminate to its school-based personnel and all parents, within the public agency boundaries of responsibility, written procedures for the identification and referral of all children with disabilities, aged birth through 21, including children with disabilities attending private schools, regardless of the severity of their disability.
2. Each public agency will require all school-based staff to review the written procedures related to child identification and referral on an annual basis. The public agency shall maintain documentation of staff review.
3. Procedures for child identification and referral shall meet the requirements of the IDEA and regulations, Title 15, Chapter 7, Article 4 and these rules.
4. The public agency responsible for child identification activities is the school district in which the parents reside unless:
 - a. The student is enrolled in a charter school or public agency that is not a school district. In that event, the charter school or public agency is responsible for child identification activities;
 - b. The student is enrolled in a private school. In that event, the school district within whose boundaries the private school is located is responsible for child identification activities.
5. Identification (screening for possible disabilities) shall be completed within 45 calendar days after:
 - a. Entry of each kindergarten student and any student enrolling without appropriate records of screening, evaluation, and progress in school; or
 - b. Notification to the public agency by parents of concerns regarding developmental or educational progress by their child aged three years through 21 years.
6. Screening procedures shall include vision and hearing status and consideration of the following areas: cognitive or academic, communication, motor, social or behavioral, and adaptive development. Screening does not include detailed individualized comprehensive evaluation procedures.
7. For a student transferring into a school; the public agency shall review enrollment data and educational performance in the prior school. If there is a history of special education for a student not currently eligible for special education, or poor progress, the name of the student shall be submitted to the administrator for consideration of the need for a referral for a full and individual evaluation or other services.
8. If a concern about a student is identified through screening procedures or through a review of records, the public agency shall notify the parents of the student of the concern within 10 school days and inform them of the public agency procedures to follow-up on the student's needs.
9. Each public agency shall maintain documentation of the identification procedures utilized, the dates of entry into school or notification by parents made pursuant to paragraph (C)(5)(b), and the dates of screening. The results shall be maintained in the student's permanent records in a location designated by the administrator. In the case of a student not enrolled, the results shall be maintained in a location designated by the administrator.
10. If the identification process indicates a possible disability, the name of the student shall be submitted to the administrator for consideration of the need for a referral for a full and

individual evaluation or other services. A parent or a student may request an evaluation of the student. If the parent of an identified student enrolled in a private school does not reside within the school district boundaries, the parent, with the assistance of the school district, shall notify the district in which the parents reside of the needs of the student and the residence school district will assume responsibility follow-up.

11. If, after consultation with the parent, the responsible public agency determines that a full and individual evaluation is not warranted, the public agency shall provide Prior Written Notice and Procedural Safeguards Notice to the parent within 60 calendar days.

E. Evaluation/Re-evaluation:

1. Each public agency shall establish, implement, disseminate to its school-based personnel, and make available to parents within its boundaries of responsibility, written procedures for the initial full and individual evaluation of students suspected of having a disability, and for the re-evaluation of students previously identified as being eligible for special education.
2. Procedures for the initial full and individual evaluation of children suspected of having a disability and for the re-evaluation of students with disabilities shall meet the requirements of IDEA and regulations, and State statutes and State Board of Education Rules.
3. The initial evaluation of a child being considered for special education shall be completed as soon as possible, but shall not exceed 60 calendar days from receipt of informed written consent. If the public agency initiates the evaluation, the 60-day period shall commence with the date of receipt of informed written consent and shall conclude with the date of the Multidisciplinary Evaluation Team (MET) determination of eligibility. If the parent requests the evaluation and the MET concurs, the 60-day period shall commence with the date that the written parental request was received by the public agency and shall conclude with the date of the MET determination of eligibility.
4. The public agency may accept current information about the student from another State, public agency, or independent evaluator. In such instances, the Multidisciplinary Evaluation Team shall be responsible for reviewing and approving or supplementing an evaluation to meet the requirements identified in subsection (D)(1) through (6).
5. For the following disabilities, the full and individual initial evaluation shall include:
 - a. Emotional disability: verification of a disorder by a psychiatrist, licensed psychologist, or a certified school psychologist.
 - b. Hearing impairment:
 - (1) An audiological evaluation by an audiologist; and
 - (2) An evaluation of communication/language proficiency.
 - c. Other health impairment: verification of a health impairment by a doctor of medicine.
 - d. Specific learning disability: a determination of whether the discrepancy between achievement and ability meet the public agency criteria.
 - e. Orthopedic impairment: verification of the physical disability by a doctor of medicine.
 - f. Speech/language impairment: an evaluation by a certified speech/language therapist.
 - g. For students whose speech impairments appear to be limited to articulation, voice, or fluency problems, the written evaluation may be limited to:
 - (1) An audiometric screening within the past calendar year;
 - (2) A review of academic history and classroom functioning;
 - (3) An assessment of the speech problem by a speech therapist; or
 - (4) An assessment of the student's functional communication skills.

- h. Traumatic brain injury: verification of the injury by a doctor of medicine
 - i. Visual impairment: verification of a visual impairment by an ophthalmologist
- 6. The Multidisciplinary Evaluation Team shall determine, in accordance with the IDEA and regulations, whether the requirements of (D)(6)(a) through (i) are required for a student's re-evaluation.
- F. Individualized Education Program (IEP).
 - 1. Each public agency shall establish, implement, and disseminate to its school-based personnel, and make available to parents, written procedures for the development, implementation, review, and revision of IEPs.
 - 2. Procedures for IEPs shall meet the requirements of the IDEA and regulations, and State statutes and State Board of Education Rules.
 - 3. Procedures shall include the incorporation of Arizona Academic Standards into the development of each IEP. IEP goals aligned with the Arizona Academic Standards shall identify the specific level within the Standard that is being addressed.
 - 4. Each student with a disability shall participate in the Arizona Student Assessment Program. The level at which a student will be assessed shall be documented on the student's IEP and shall be at least at the student's instructional level. The IEP shall also document instructional and assessment adaptations required by the student.
 - 5. A meeting shall be conducted to review and revise each student's IEP at least annually, or more frequently if the student's progress substantially deviates from what was anticipated. The public agency shall provide written notice of the meeting to the parents of the student to ensure that parents have the opportunity to participate in the meeting.
 - 6. A parent or public agency may request in writing a review of the IEP. Such review shall take place within 15 school days of the receipt of the request or at a mutually agreed upon time but not to exceed 30 school days.
- G. Least Restrictive Environment.
 - 1. Each public agency shall establish, implement, and disseminate to its school-based personnel, and make available to parents, written procedures to ensure the delivery of special education services in the least restrictive environment as identified by IDEA and regulations, and State statutes and State Board of Education Rules.
 - 2. A continuum of services and supports for students with disabilities shall be available through each public agency.
- H. Procedural Safeguards. Each public agency shall establish, implement, and disseminate to its school-based personnel and parents of students with disabilities written procedures to ensure children with disabilities and their parents are afforded the procedural safeguards required by Federal statute and regulation and State statute. These procedures shall include dissemination to parents information about the public agency's and State's dispute resolution options.
- I. Confidentiality.
 - 1. Each public agency shall establish, implement, and disseminate to its personnel, and make available to parents, written policies and procedures to ensure the confidentiality of records and information in accordance with the IDEA, the Family Education Right to Privacy Act (FERPA) and regulations, and State statutes.
 - 2. Upon receiving a written request, each public agency shall forward special education records to any other public agency in which a student is attempting to enroll. Records shall be forwarded within the time frame specified in A.R.S. §15-828 (F). The public agency shall also forward records to any other person or agency for which the parents have given signed consent.

- J. Preschool Programs.
1. Each public agency responsible for serving preschool children with disabilities shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures for:
 - a. The operation of the preschool program in accordance with Federal statute and regulation, and State statute;
 - b. The smooth and effective transition from the Arizona Early Intervention Program (AzEIP) to a public school preschool program in accordance with the agreement between the Department of Economic Security and the Department; and
 - c. The provision of a minimum of 360 minutes of instruction in a program that operates at least three days a week.
- K. Children in Private Schools. Each public agency shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures regarding the access to special education services to students enrolled in private schools as identified by the IDEA and regulations, and State statutes and State Board of Education Rules.
- L. State Education Agency Responsible for General Supervision and Obligations Related to and Methods of Ensuring Services.
1. The Department is responsible for the general supervision of services to children with disabilities aged 3 through 21 served through a public agency.
 2. The Department shall ensure through fund allocation, monitoring, dispute resolution, and technical assistance that all eligible students receive a free appropriate public education in conformance with the IDEA and regulations, Title 15, Chapter 7, Article 4 and these rules.
- M. Procedural Requirements Relating to Public Agency Eligibility.
1. Each public agency shall establish eligibility for funding with the Arizona Department in accordance with the IDEA and regulations, and State statutes and with schedule and method prescribed by the Department.
 2. In the event the Department determines a public agency does not meet eligibility for funding requirements, the public agency has a right to a hearing before the State Board of Education before such funding is withheld.
 3. The Department may temporarily interrupt payments during any time period when a public agency has not corrected deficiencies in eligibility for federal funds as a result of fiscal requirements of monitoring, auditing, complaint and due process findings.
 4. Each public agency shall, on an annual basis, determine the number of children within each disability category who have been identified, located, evaluated, and/or receiving special education services. This includes children residing within the boundaries of responsibility of the public agency who have been placed by their parents in private schools.
- N. Public Participation.
1. Each public agency shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures to ensure that, prior to the adoption of any policies and procedures needed to comply with Federal and State statutes and regulations, there are:
 - a. Public hearings,
 - b. Notice of the hearings, and
 - c. An opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities
 2. This requirement does not pertain to day-to-day operating procedures.

O. Suspension and Expulsion.

1. Each public agency shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures for the suspension and expulsion of students with disabilities.
2. Each public agency shall require all school-based staff involved in the disciplinary process to review the policies and procedures related to suspension and expulsion on an annual basis. The public agency shall maintain documentation of staff review.
3. Procedures for such suspensions and expulsions shall meet the requirements of the IDEA and regulations, and State statutes.

R7-2-402. Standards for approval of special education programs in private schools

A. Definitions.

1. All terms defined in the regulations for the Individuals with Disabilities Education Act (IDEA) 1997 Amendments (34 CFR parts 300.4 through 300.30), A.R.S. § 15-761, and State Board of Education Rule A.A.C. R7-2-401 are applicable.

B. No student may be placed by a public agency in a private school special education school program unless the facility has been approved as meeting the standards as outlined in this rule, and the public agency is unable to provide satisfactory education and services through its own facilities and personnel.

C. In order for a private special education school to be approved by the Department for the purpose of contracting with a public agency, the private facility shall:

1. Provide special education instructional programs for students with disabilities that are at least comparable to those provided by the public schools of Arizona and meet the requirements of IDEA.
2. Provide the following documentation:
 - a. Policies and procedures based on IDEA and State Statutes;
 - b. Curriculum that is aligned with the Arizona Academic Standards;
 - c. A completed application;
 - d. Copies of all teacher and related service personnel certifications and licenses; and
 - e. If applicable, a copy of North Central Accreditation.
3. Provide certified special education teachers in each classroom to implement the IEPs of those students assigned to that classroom.
4. Provide related services to meet the needs of the students as indicated on their IEPs.
5. Provide administration personnel such as head teacher, principal, or other administrator certificated in an administrative area or experienced and certified in the appropriate area of special education.
6. Provide an education that meets the standards that apply to education provided by the public agency.
7. Maintain student records in accordance with the statutory requirements
8. Accept all responsibilities concerning instructional programs to the disabled student and parent or guardian that are required of the public schools of Arizona. Ultimate responsibility for any student under contract in a private special education school rests with the public agency contracting for the students' education.
9. Maintain adequate liability insurance.
10. Maintain an accounting system and budget which includes the costs of operation,

maintenance, transportation, and capital outlay, and which is open to review upon request.

11. Maintain an attendance reporting system that provides public agencies and the Department with required information.
12. Provide notification to contracting public agencies and the Department of any changes in staff or deletion of programs within 10 school days of the change or deletion.
13. Permit on-site evaluation of the program by the Department or its designees, and the representatives of the public agencies.
14. Request approval to contract with public agencies from the Department in accordance with the prescribed procedures.